

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

In re: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

File No. 15-md-2666 (JNE/DTS)

This Document Relates to:
All Actions¹

JOINT NOTICE OF APPEAL

JOINT NOTICE IS HEREBY GIVEN pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, that Plaintiffs in the above-captioned multi-district litigation (“MDL”) hereby appeal to the United States Court of Appeals for the Eighth Circuit from the Judgment of this Court dated August 2, 2019 [Dkt. 2067], issued pursuant to the Order [Dkt. 2065] and Memorandum [Dkt. 2064] dated July 31, 2019, which: (1) granted Defendants’ Motion To Reconsider the Court’s December 13, 2017, Order on Motion to Exclude Expert Testimony and Summary Judgment [Dkt. 1718]; (2) granted Defendants’ *Daubert* Motions to Exclude the Expert Testimony of Drs. Jarvis, Samet, Stonnington, and Elghobashi; and (3) granted Defendants’ Motion for Summary Judgment.

Plaintiffs also appeal from the following prior orders affecting the judgment, which were not final and appealable prior to entry of judgment:

- The Court’s order dated March 6, 2017, denying Plaintiffs’ Request to Overrule VitaHEAT’s Relevancy Objection [Dkt.249], the order dated March 22, 2017, denying reconsideration of the March 6, 2017 order [Dkt. 282], and the order dated April 13, 2017, affirming

¹ This Joint Notice of Appeal is brought by and on behalf of Plaintiffs in All Actions pending in MDL 2666 at the time the Judgment was entered.

denial of Plaintiffs' Request to Overrule VitaHEAT's Relevancy Objection [Dkt. 304];

- The Court's order dated March 31, 2017, granting 3M/Third Party Request for Protective Order re: Conductive Warming Devices [Dkt. 293];
- The Court's order dated July 27, 2017, denying Plaintiffs' Motion for Leave to Amend to Add Claims for Punitive Damages [Dkt. 629], and the order dated October 19, 2017, affirming the same [Dkt. 985];
- The Court's order dated December 13, 2017, denying Plaintiffs' Motion to Exclude Defendants' Experts [Dkt. 1024];
- The Court's order dated July 3, 2018, granting Defendants' Motion for Protective Order re: Dr. Mynkowitz [Dkt. 1322];
- The Court's order dated July 25, 2018 denying various Plaintiffs' *Lexecon* waiver retractions [Dkt. 1379];
- The Court's order dated September 20, 2018, granting Defendants' Motion to Strike/Exclude Drs. David's and Bushnell's Expert Reports [Dkt. 1522], and the November 6, 2018 order affirming the same [Dkt. 1580];
- The Court's order dated November 20, 2018, granting Defendants' Motion for Leave to File Motion for Reconsideration of *Daubert* order [Dkt. 1608];
- The Court's February 21, 2019 order denying Plaintiffs' Request to Conduct Supplemental Discovery re: Defendants' Motion for Reconsideration of *Daubert* order [Dkt. 1781];
- The Court's order dated June 28, 2019, granting in part Defendants' Motion to Exclude New Articles from Record re: Reconsideration of *Daubert* order [Dkt. 2006]; and
- The Court's various orders sealing records from the public, including the March 28, 2018 Order [Doc. 1182]; the May 9, 2018 Order [Dkt. 1247]; the June 18, 2018 Order [Dkt. 1294].

Dated: August 29, 2019

Respectfully submitted,

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